

BOARD OF MASSAGE THERAPY
CONFERENCE CALL FULL BOARD MEETING
301 S. PARK AVENUE, HELENA, MT 59620
4TH FLOOR CONFERENCE ROOM
JANUARY 18, 2011 1:00 P.M.
OPEN SESSION MINUTES

AMERICANS WITH DISABILITIES ACT:

The Department of Labor and Industry is committed to providing meeting access through reasonable accommodation under the Americans with Disabilities Act. Please contact the Board office prior to the proposed meeting date for further information.

EXECUTIVE SESSION:

The decision on whether to hold a meeting in executive session is at the discretion of the Presiding Officer pursuant to Section 2-3-203 MCA.

CALL TO ORDER: 10:31 AM

Members Present:

Michael Eayrs, Chair

Nick Soloway, DC, Vice Chair, Professional Member

Grace Bowman, Public Member

Deborah Kimmet, Professional Member

Stacy Baird, Professional Member

Staff Present:

Tyler Moss, Board Counsel

Traci Collett, Unit Supervisor

Priscilla Bode, Board Administrator

Others Present:

Lynn Korgut

Others present are named as they appear.

(1) REVIEW OF AGENDA:

The agenda was reviewed and a quorum was established.

Motion: Grace Bowman moved to approve the Agenda. Stacey Baird seconded. Motion carried.

(2) PUBLIC COMMENT STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic not on the current agenda. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask that the issue be placed on a subsequent agenda for possible Board action. The Chairperson of the Board will determine the amount of time allotted for public comment.

Lynn Kogut asked if she could address the Board. Mr. Moss advised her of the protocol for speaking.

(3) REVIEW AND APPROVAL OF MINUTES:

The minutes of the 1/7/2011 Full Board conference call were considered.

Motion: Nick Soloway moved to approve the minutes as presented. Deb Kimmet seconded. Motion carried.

The minutes of the 11/4/2010 Full Board meeting were considered.

Motion: Nick Soloway moved to approve the minutes as presented. Deb Kimmet seconded. Motion carried.

(4) FINANCIAL/OFFICE REPORT:

Ms. Bode advised that the financial data included in the Board Book was as of the end of the second quarter of fiscal year 2011, and presented an updated report as of January 18, 2011. Ms. Bode advised that as of the date of the meeting revenues were at \$60,280, expenditures at \$68,594 and the current cash balance in the Board's account was \$26,972.

Motion: Nick Soloway moved to approve the budget. Stacey Baird seconded. Motion carried.

(5) UNLICENSED PRACTICE COMPLAINTS:

Tammie Wolfe

The Board reviewed the materials provided by Ms. Wolfe. The Board discussed the issue of the grandfather licensing process. Nick Soloway commented that the Board would have to address each of the complaints individually because practitioners who qualify under that process do not presently need to be licensed. Ms. Bode advised that in response to complaints of unlicensed practice the

Compliance Specialist is sending out a letter which asks the respondent if they do comply with the grandfather requirements. Deb Kimmet commented that Ms. Wolfe had removed the reference to being licensed from her website.

Motion: Deb Kimmet to dismiss the complaint without prejudice, and staff to write to Ms. Wolfe advising that she may not advertise that she is a licensed massage therapist. Grace Bowman seconded. Motion carried.

Alicia Miller

The Board discussed the issue of anonymous complaints and Mr. Moss explained the Bureau's responsibilities. The matter of anonymous complaints of unlicensed practice will be placed on the agenda at the next meeting. The Board discussed the email from the Montana Institute of Massage Therapy and Ms. Bode advised that she had requested the Institute put its concerns regarding supervision of student massage in writing for the Board's consideration. There was discussion about the anonymous complaint filed against Ms. Miller.

Motion: Deb Kimmet to dismiss the complaint without prejudice. Grace Bowman seconded. Motion carried.

Ben Kahn and Cotton Root

Ms. Bode advised the Board that there has been no response from either of these respondents.

Motion: Deb Kimmet to send follow up letters requiring a response within thirty days. Nick Soloway seconded. Motion carried.

(6) ENDORSEMENT APPLICATIONS:

Aaron Eaton:

The Board reviewed his application.

Motion: Deb Kimmet to license Aaron Eaton by endorsement from South Dakota, pending receipt of a completed application. Stacy Baird seconded. Motion carried.

Andrea Ellestad

The Board reviewed her application.

Motion: Grace Bowman to license Andrea Ellestad by endorsement from Kentucky. Michael Eayrs seconded. Motion carried.

(7) NON-ROUTINE APPLICATIONS:

Rachel York:

The Board reviewed Ms. York's application and determined she had completed the requirements of her conviction.

Motion: Deb Kimmet moved to license Rachel York, upon receipt of a completed application. Nick Soloway seconded. Motion carried.

Melanie Shaw:

The Board reviewed Ms. Shaw's application.

Motion: Grace Bowman moved to license Melanie Shaw, upon receipt of a completed application. Michael Eayrs seconded. Motion carried.

Jeanie Riefflin:

The Board reviewed Ms. Riefflin's application.

Motion: Deb Kimmet moved to license Jeanie Riefflin, and for staff to write a letter to Ms. Riefflin warning against aiding and abetting unlicensed practice. Grace Bowman seconded. Motion carried.

Kay Rossow:

The Board reviewed Ms. Rossow's application.

Motion: Deb Kimmet moved to license Kay Rossow, upon receipt of a completed application. Nick Soloway seconded. Motion carried.

Jo Lynne Smith:

The Board reviewed Ms. Smith's application.

Motion: Deb Kimmet moved to license Jo Lynne Smith, upon receipt of a completed application. Nick Soloway seconded. Motion carried.

Dustan Davis:

The Board tabled Mr. Davis' application and requested staff schedule a telephone conference call at a later date to discuss it further.

(8) BOARD GENERATED COMPLAINTS:

The Board discussed the Memorandum from the Legal Unit.

Motion: Nick Soloway moved to accept the list of automatic complaints against a licensee for staff to generate such a complaint. Deb Kimmet seconded. Motion carried.

Motion: Deb Kimmet moved that the Compliance Unit not file Board generated complaints on the list of automatic complaints based on information supplied anonymously. Michael Eayrs seconded. Stacy Baird and Nick Soloway voted aye. Grace Bowman voted against. Motion carried.

(9) CORRESPONDENCE:

The Board discussed the letter from the NCBTMB.

The email from Amy Slabaugh was reviewed and the Board discussed the eligibility of her courses for continuing education.

Moved: Deb Kimmet that staff respond in writing to Ms. Slabaugh advising the Board does not pre-approve continuing education and that college courses are not excluded. Stacy Baird seconded. Motion carried.

(10) DISCUSSION ITEMS:

FAQS regarding exemptions:

The Board discussed the draft and directed staff to make the necessary amendments and to post it on the website.

Motion: Deb Kimmet to make the proposed changes to the FAQS and have staff post them on the website. Michael Eayrs seconded. Motion carried.

Spray and Stretch:

Mr. Moss advised the Board that staff had been unable to find proof that Spray and Stretch is a prescription drug. Board members discussed it's availability without a prescription and decided not to pursue the issue further.

Probationary Licenses/Temporary Permits

The Board discussed the circumstances under which a temporary license might be issued. Mr. Moss advised the Board of the legal requirements of such licensing, and that it would need to be implemented by a Rule, although this might not be appropriate for endorsement applications. He advised that it might be applicable for examination applications with a time limit on the completion of the examination. Nick Soloway stated he did not feel temporary licenses would not be appropriate. Michael Eayrs suggested that the matter be addressed at a future meeting.

(11) REPORT FROM DEB KIMMET ON FSMTB ANNUAL MEETING:

Deb Kimmet discussed the possibility of changing licensing requirements to accept only the MBLEx for applicants by examination. She discussed the

ramifications of not accepting the NCBTMB exam and the effect that might have on applicants who had passed that examination in the past. The Board discussed the potential change and Michael Eayrs stated the Board should consider the issue in depth because of the implications of such a change. He also suggested that the Board request a representative of FSMTB attend a Board of Massage Therapy meeting

Motion: Michael Eayrs to contact FSMTB to set up a meeting with a representative of that Board. Grace Bowman seconded. Motion carried.

Deb Kimmet raised the issue of approval of continuing education providers, curriculum guidelines and fraudulent schools.

She asked if staff had received any information from FSMTB regarding the national database, and Ms. Bode advised that this appears to be in development and she is following its progress.

The Board decided that the various items in the report of the FSMTB would be brought up individually at future board meeting.

Stacy Baird left the meeting at 3:34 pm.

(12) LEGISLATION:

Deb Kimmet reported on pending legislation. She advised the Board on SB 120 which will require board member contact information to be published and other bills which have not yet been introduced.

She expressed concern that Board members were not notified on HB 73 by staff in a timely manner. Staff advised that they were not aware of the pending legislation until it became a bill and it is not department practice to apprise board members of pending legislation until the language has been settled. Nick Soloway requested that in future the Board be notified in a timely manner of legislation which might affect the Board.

(13) NEXT MEETING:

The Board decided to schedule a further meeting to review Mr. Davis application. A conference call was scheduled for January 24, 2011 at 1:00 pm.

(15) ADJOURNMENT:

As there was no further business to come before the Board at this time:

Motion: Nick Soloway moved to adjourn at 4:06 pm. Michael Eayrs seconded.
Motion carried.